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Wanted—A Bird Dog.—Cooper, a hotel keeper, wrote to one Leitner of Egypt, Ga., the following letter: "I understand you have a good bird dog for sale. I have been sick several months, and my physician says I must get in the woods and stay there, so I thought I would hunt a while, as I am an old bird hunter and like the sport. Send him to me by baggage master on Central of Georgia at my expense. Let me try him a day or two, and if he is all right, I will return him to you in good order. We have more scraps to throw around the hotel than 20 dogs can eat." A dog was expressed over the Brinson Railroad—Leitner did not think it was safe to trust the baggage master of the Central. As Cooper was in North Georgia at the time of the dog's arrival, his wife receipted for the shipment, and, to quote literally from Cooper's testimony, "she tied him up at the hotel and he howled so much that she took him out for a walk for some exercise, and he got away." The dog was never heard of again. Leitner contended that inasmuch as Cooper's wife receipted for the dog Cooper waived the violation of the instructions in the letter as to the method of shipment and became bound either to return the dog or to pay its value. The Court of Appeals of Georgia in *Leitner v. Cooper*, 71 *Southeastern Reporter*, 596, does not concede the correctness of this contention, and holds that as Cooper had the right to select his own agent, and did not select his wife, she held the dog in her custody as a mere gratuitous bailee, and that he was not bound under his original contract either to pay for the dog or to return it, but if bound at all was bound only to exercise that degree of care which is imposed by law upon gratuitous bailees.

Fire Caused by Railroad Engine.—While it may safely be presumed that the jury will award damages to one suing a railroad, yet it does not follow that the mere passing of a railroad engine followed by a fire creates the presumption that the railroad company was guilty of negligence in starting the fire. It is making it pretty strong to allow the presumption to be that the fire was even started by the railroad engine, but this rule is allowed, says the Supreme Court of Washington, on the ground of necessity, so that the ends of justice may not be defeated; but to go further than that, and make the mere fact of the fire evidence of the railroad's negligence, is stretching the old family stocking a little too far for future use. Presumptions must stand on their own legs, and not on top of each other. After it has been proven that the railroad caused the fire, the burden of proof then, and not until then, falls on the railroad to explain the situation and to clear its skirts of negligence. In the present case the plant of a certain roofing company was located some 80 feet from the tracks of the Northern Pacific Ry. Co. in the state of Washington. About midnight a train, laboring rather hard and throwing sparks as usual, passed up the grade by the plant, and three-quarters of an

hour later the night watchman discovered the platform between two of the buildings on fire. There was no evidence that the engine caused the fire, so the question of defendant's negligence was correctly taken from the jury. *Thorgrimson v. Northern Pacific Ry. Co.*, 117 Pacific Reporter, 406.

Militiaman Runs Bayonet Through Citizen.—At the request of the secret service men of the United States, Mayor Hag of Dallas, Tex., issued a call for the National Guard to do guard duty during President Taft's visit in the city. Manley, in *Manley v. State*, 137 Southwestern Reporter, 1137, was detailed to keep the people out of a part of the city street at all hazards, and while performing such service he killed deceased, attempting to pass through to catch a street car, by stabbing him with a bayonet. The Court of Criminal Appeals in reversing the conviction of murder sets forth the law relative to militiamen, and holds that since in time of peace a militiaman has only the rights of a peace officer, if in the performance of his duty his life becomes in danger, or it appears to him under all the facts and circumstances in evidence that some person is about to assault him with the intention of killing him or doing him some bodily injury, he may kill such other in self-defense, but that he has no other authority to take human life.